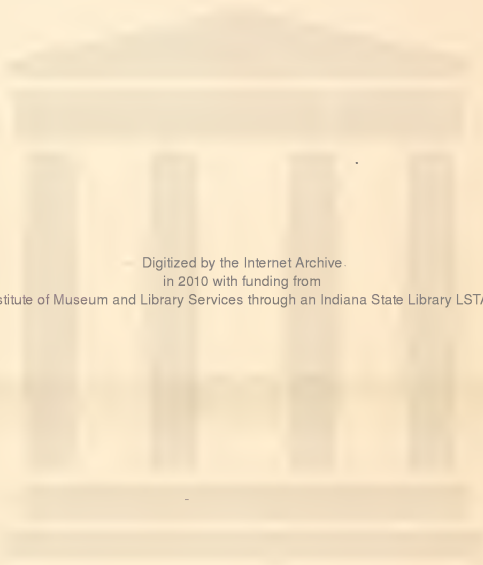


7
I was serving with my regiment, the Second Ohio Cavalry, along the Cumberland in Southern Kentucky in the latter part of the year 1863, when the judge advocate on the staff of General Burnside, Major J. Madison Cutts (brother-in-law of the late Senator Douglas), committed an offense for which charges were preferred against him. General Burnside sent inquiries to the front for some officer who was a lawyer, and who could be recommended as capable of trying his judge advocate. I was recommended, and ordered back to Cincinnati, where General Burnside's headquarters then were, as commander of the Department of the Ohio.

After finishing this case, I was kept on court-martial duty at Cincinnati, Lexington and Louisville for some time, and finally, at the request of Governor Morton, in September, 1864, I was ordered to Indiana to act as judge advocate of the court detailed to try the members of the "Knights of the Golden Circle," or "Sons of Liberty." These trials were finished some time in December of that year, and I entered almost immediately upon the trial of the Chicago conspirators—St. Louis, Grenfell, and others—who had come over from Canada to engage in the enterprise of releasing the rebel prisoners



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then in Camp Douglas, near Chicago. While making the closing argument in this case, on the 17th of April, 1865, I received a dispatch from the secretary of war, directing me to report immediately to that department to aid in the examinations respecting the murder of the President.

I started for Washington the same evening, reached there in the morning of the 19th, and was "specially assigned by the War Department for duty on the investigation of the murder of President Lincoln and the attempted assassination of Mr. Seward," and a room was assigned to me in the War Department.

The gloom of that journey to Washington and the feeling of vague terror and sorrow with which I traversed its streets, I cannot adequately describe, and shall never forget. To this day, I never visit that city without some shadow of that dark time settling down over my spirit. All the public buildings and a large portion of the private houses were heavily draped in black. The people moved about the streets with bowed heads and sorrow-stricken faces, as though some ill-omened rebell had borne of its first born. When men spoke to each other in the streets there were tremulous tones in their voices and a quivering of the lips, as though tears and violent expression of grief were held back only by great effort. In the faces of those in authority—cabinet ministers, officers of the army—there was an anxious expression of the eye as though a dagger's gleam in a strange hand was to be expected, and a pale determined expression, a set of the jaw that said: "The truth about this conspiracy shall be made clear and the assassins found and punished; we will stand guard and the government shall not die."

For no ruler that ever lived, I venture to say, not excepting Washington himself, was the love of the people so strong, so peculiarly personal and tender, as for Abraham Lincoln. Especially was this so among the soldiers, all members of the old army will remember with what devotion and patriotic affection the boys used to shout and sing, "We are coming, Father Abraham!" and will remember what a personal and confiding sort of relation seemed to exist between the boys and "Uncle Abe," and how those brave soldiers, veterans of four years of fearful war, mired to hardship, to sickness and wounds, familiar with the faces of death, wept like little children when told that "Uncle Abe" was dead. The scene at the bedside of the dying president had been described in the press, and as the news swept around the earth, all the children of man in all the civilized world, wept with those about his couch. That death-bed scene will never be forgotten. It was surrounded by his cabinet ministers, all of whom were bathed in tears, not excepting Mr. Stanton, the war secretary, with iron will and nerve, who when informed by Surgeon General Barnes that the president could not live until morning exclaimed, "Oh, no, General! No, no," and immediately sat down at his bedside and wept like a little child.

Senator Sumner was seated on the right of the president's couch, near the head, holding the right hand of the president in his own. He was sobbing like a tender woman with his head bowed down almost to the pillow of the bed on which the president was lying.

At twenty-two minutes past seven the president passed away, and Mr. Stanton exclaimed, "Now he belongs to the ages." Besides the persons named, there were about the death-bed his wife and son, Vice President Johnson, all the other members of the cabinet with the exception of Mr. Seward, Generals Halleck, Meigs, Fernsworth, Anger and Ladd, Rev. Dr. Gurley, Schuyler Colfax, Governor Fairwell, Judges Carter and Otto, Surgeon-General Barnes, Drs. Shaw, Crum and Lusk, Major John Hay and Munnell R. Field.

When I entered upon the duty of assisting in the investigation of the murder of the president, on the 19th of April, it must be borne in mind that at that time it was not positively known who had assassinated the president, or attempted the life of Secretary Seward; Booth was the alleged assassin. How widespread was the conspiracy or who were in it, no one at that time knew.

There was general apprehension and belief that further assassinations would be attempted, and guards were placed around the private residences of the cabinet ministers, General Grant's house and the public buildings; soldiers patrolled the city and were scouring the country. All that was then positively known as to the assassination of the president, was that a tall dark man, apparently about thirty years of age, had forced his way into the president's box at Ford's Theatre on the evening of the 14th, had shot the president, stabbed Major Rathbone who attempted to detain him, had leaped over the front of the box on to the stage below, fled across it crying, "See scupper tyrants!" then out by the right side to the rear door of the theatre, had there mounted a horse, galloped away into the night, crossing the navy yard bridge; that another supposed confederate soon after galloped after him and joined him, and this was the sum of the positive knowledge at that time.

Of that scene in the box at the theatre, and on that night, Newlay and Hay, in the "Life of Lincoln," say: "The whole performance remains in the memory of those who heard it, a vague phantasmagoria, the actors the thinnest of specters. The awful tragedy in the box makes everything else seem pale and unreal. Here were five human beings in a narrow space—the greatest man of his time in the glory of the most stupendous success in our history, the idolized chief of a nation already mighty, with dimitable vistas of grandeur to come; his beloved wife, proud and happy; a pair of betrothed lovers, with all the promise of felicity that youth, social position and wealth could give them; and this young actor, handsome as Euryclon upon Latona, the pet of his little world. The glitter of fame, happiness and ease was upon the entire group, but in an instant, everything was to be changed with the blinding swiftness of enchantment. Quick death was to come on the central figure of that company—the central figure, we believe, of the great and good men of the century. Over all the rest the blackest fate hovered menacingly—fates from which a mother might pray that kindly death would save her children in their infancy. One was to wander with the stain of murder on his soul, with the curses of a world upon his name, with a price set upon his head, in frightful physical pain, till he died a dog's death in a burning barn; the stricken wife was to pass the rest of her days in melancholy and mourning; of these two young lovers, one was to slay the other and then end his life a raving maniac."

At the same hour that Booth fired the fatal shot, Payne appeared at the door of Secretary Seward's house, in the guise of a messenger from Dr. Verdi, holding in his hand the package that Booth had prepared for him, and demanded to see the secretary, saying that he had a verbal message which was of particular importance in regard to the use, or application of the medicine, and that he must see the secretary himself. Dr. Verdi had left his patient but a short time before, and had consoled the family that had for days been suffering the greatest anxiety on account of the secretary's condition, by taking a favorable view of the symptoms. The family, worn with watching and anxiety, were disposing themselves for the night. Major A. H. Seward had retired to his room. Sergeant George F. Robinson, acting as attendant nurse, was watching by the bedside in company with Miss Seward, the secretary's daughter. Frederick D. Seward occupied the room at the head of the stairs. All the rooms occupied by the secretary and his family were on the second floor, and were reached by a flight of stairs in the hall-way.

The second waiter, William H. Bell, a colored lad of nineteen, was stationed at the hall door. Being somewhat relieved of their anxiety by the doctor's favorable view of the case, all were anticipating a night of quiet rest. The door bell rang and was responded to by Bell, the colored waiter. Immediately upon the opening of the door, Payne stepped into the hall. He was a tall, broad-shouldered, muscular man, as agile and ferocious as a panther; a low-browed, scowling, villainous-looking specimen of humanity, the animal preponderating largely in every feature of his visage and expression of his countenance. There he stood, holding in his left hand the package, and keeping his right hand in his overcoat pocket. He demanded of the boy to be allowed to see the secretary, telling his story about being sent by Dr. Verdi to deliver the medicine with his directions. The porter told him that his orders were to admit no one, and that he could not see Mr. Seward; that he would deliver the package himself. To this Payne would not consent, but persisted in saying that he must see Mr. Seward. After considerable parleying, he started upstairs, and the porter, seeing that he would go, and thinking that he might complain of his conduct to the secretary, asked him to pardon him, to which Payne replied: "Oh, I know; that's all right." He was wearing heavy boots and took no pains to walk lightly as he went up the stairs, whereupon the porter requested him not to make so much noise, to which, however, he paid no attention. As he approached the head of the stairs, he was met by Mr. Frederick Seward who had been attracted by the noise, to whom he said, "I want to see Mr. Seward." Frederick went into his father's room, and finding him asleep, returned saying, "You cannot see him." All this time Payne stood holding the package in his left hand, grasping with his right hand the pistol in his overcoat pocket. Frederick

expressed it. "It is a fact in my opinion," he continued, "that, but Payne persisted in saying that I could not do it," he said. "I, Seward, he said to me. 'Frederick finally gave up his position, and his son, if you cannot leave your marriage with me, I will leave it at all.'" Payne still continued perlying with Frederick, and, as time went on, he, feeling that his talking availed nothing, he started to do it himself. Then, however, as only a front on his part in order to throw off his guard and to get out of the power of the blackmail man. He enjoyed it so heartily that the porter requested him to stop, and he did so, but at that moment, Payne, having prepared himself for the assault, turned quickly, and making a spring towards Frederick, struck him on the forehead three times with the pistol, which he had all the time held in his hand, throwing his skull and knocking him senseless to the floor. Having accomplished what he was occupied by the marshal by using Frederick, he rose up, Payne, seeing that the prostrate man, opened the door of the secretary's room and went out by Sergeant Robinson. Having hidden and thrown down his pistol and his encounter with Frederick, he had drawn his dagger, and at his first encounter with the sergeant, he struck him with his knife, cutting a ugly gash in his forehead and partially knocking him down. He then passed rapidly towards back in hand, to where the marshal lay on his bed. Throwing himself upon him, he commenced striking at his face and neck with his dagger. The secretary was reclining in a half sitting position, having the curtains well drawn up about his neck and face, so that consequently the future of the world be known to take his life was no doubt true. The sergeant, as soon as he recovered his equilibrium, spring upon Payne, and Major Seward, having been awakened by the screams of his wife, spring into the room in his night dress. Finding the sergeant grappling him on each side, he loses the effectiveness of his thrusts at the secretary, and put off thinking that he had accomplished his purpose, the assassin turned his attention toward making his escape. In disentangling himself from the grasp of the two men who now had hold of him, he gave Major Seward several stabs only about the head and face, crying all the time, "I am dead! I am dead!" Finally turning himself loose, he started to make his way to the street. Meeting a Mr. Frank W. Hunsell, another nurse, on the stairs, he made a thrust at him with his knife, inflicting an ugly wound. He was left the house, leaving five of the inmates disabled, cut and bleeding behind him. Having reached the street, he deliberately threw his dagger away, through the bars which he had hitched in front of the door, and rode off.

After the attack at Secretary Stewart's, Dr. Vosti and two or three other surgeons were at once called to examine and treat the secretary and the other victims of Payne's dagger. The house in which the catchlight was made had the appearance of a channel house, a slaughterhouse. The secretary was found to have received three or four severe cuts about the face and neck, which were only made dangerous by the loss of blood they had occasioned and the weak condition of the patient.

The secretary, such a dear old good woman. Of the other four wounded men, the wounds of Mr. Frederick Howard proved the most serious, as his skull had been fractured and depressed, so as to crush his brain-case, from which condition he was only saved by a surgical operation. All finally recovered.

On the evening of the 14th, Booth had called at the Kirkwood House, where Vice-President Johnson was stopping, and left a card on which was written: "Don't wish to disturb you. Am you at home? J. Wilkes Booth."

On the evening of the 11th, a man appeared at Secretary Stanton's house, whom General Grant saw that evening, but asked to leave both General Grant and Secretary Stanton pointed out to him, which was done. He did not speak to either of them, and lingered on the hall watching them and sat down on a step of the front steps until he was driven away. This was the same of what was actually and positively known of the facts as to the assassination of the president, the attempted assassination of Secretary Seward, and the movements of the conspirators on the 12th.

As I have said before, while it was rumored and generally believed that J. Wilkes Booth was the assassin, for many days this rested only upon the statements of some of the persons of the Lincoln, that they believed it was Booth. They thought they recognized him as he ran across the stage, but could not be certain about it. The first evidence which conclusively established his identity in the minds of those investigating the facts, was obtained about the 21st or 22d of April. It was known that the assassin had injured himself when he jumped from the president's box, that he limped as he ran across the stage, and it was subsequently ascertained that he had broken one bone of his left leg. He was traced to Dr. Mudd's house, near Georgetown, Maryland, and there, on the 21st, was secured the foot which Dr. Mudd had cut from his leg, when he set the bone. On the inside of the foot was the number of the foot and the name of the owner, and the words "J. Wilkes." As soon as the foot was received at the War Department, I had ex-Major-General Murray put aboard a special engine and sent to New York to look up the maker and ascertain for whom the foot was made. That night a telegram was received from him saying the foot was made for J. Wilkes Booth. This settled the identity of the assassin in our minds beyond all doubt, and was the basis on which we proceeded in our investigations as to who were the authors and abettors of the assassin and who were his co-conspirators.

The investigation of the facts was prosecuted under the personal direction of the secretary of war with general abnegation, until the day the court was ordered to convene, May 28th. A man indistinguishable, unless a worker it has never been my fortune to encounter, either in military or civil life, then Secretary Stanton. Many nights I worked with him until the morning dawn began to show in at the windows, and many nights I left the department at midnight or in the small hours of the early morning completely worn out, and I left him still there working.

Early in my work I had a personal experience with Secretary Stanton which illustrates some of his characteristics. Almost immediately after commencing my investigation, I learned that a Mr. Wickham and a Mr. Hollahan, who had been boarders with Mrs. Smith, had been sent by the secretary to Canada to find John H. Smith, whom the secretary believed to have been one of the conspirators, and if possible to bring him back to Washington. A few days after learning this fact, two men appeared at my office from the War Department, and announced themselves as Wickham and Hollahan. I wrote their names on a card and sent to the secretary, announcing their arrival and asked for instructions. He went in and very briefly said, "Take their statements and have them repeat them day to day." This I wrote on the card and returned to my office. I then had their statements taken down stenographically and mounted them to repeat from day to day. That evening, I should think about twelve o'clock, a messenger appeared at my room at Willard's Hotel, Mr. McKitt, a special agent then at work on this investigation, and said to me: "The secretary wants you, and the clock is to pay." I said, "What is it?" He answered, "I don't know, but he is in a terrible temper." When I appeared before him, he was walking up and down his office apparently in a great state of excitement, and burst out with, "I hear that Wickham and Hollahan were in your office to-day and that you let them go." I said, "Yes, Mr. Secretary." "I get no further when he finds it with," "You had no business to let the men go. They are some of the conspirators, and you have them here at this office, by eight o'clock to-morrow morning, or I will deal with you." I again explained, "But, Mr. Secretary," (intending to add that it was by his instructions) but he interrupted by saying, "Not a word, sir, you have these men here to-morrow morning by eight o'clock."

I saw there was no use to attempt our controversy with him or explain, so turned back and went into my office, a good deal depressed and disheartened. I sat down at my desk, thinking what I should do. I then recalled one of the military maxims, that when a grave and important duty is imposed by a superior, the person is always equal to the duty, and I immediately sat down at my desk and wrote out an order to General Angier, who was then in command of the district of Washington, to at once detail a regiment to command and guard all the usual modes of ingress and egress to Washington, to examine every person who departed therefrom during the night or in the morning until further orders, and to carefully inspect each person departing, in order to find and bring to the War Department the next morning by eight o'clock the two men, Winthrop and Hollahan, giving as near as I could a careful description of their persons. I further ordered him to detail two companies to report at once at the War Department for duty. When these companies arrived, I divided them into squads of ten each, in command of either a commissioned or non-commissioned officer, and concentrated at the Georgetown Bridge to stop up and examine all the occupants on each street leading to the capital, except of course, the residence of foreign diplomats and cabinet ministers, taking charge personally of one squad and one street. I directed them to report to me at Willard's at noon which in the

morning. At seven o'clock all my squads reported to me and reported an utter failure.

I then started up to the War Department as I had returned and discouraged a man as you could have found in the city of Washington to report to the secretary and take my medicine. Just as I was passing along diagonally in front of the presidential mansion, and directly opposite General Angell's headquarters, I nearly ran into a man, and looking up discovered it was Weichman. I was almost motionless with reflecting emotions, then my arms about him for a moment and then linked my arm in his and said, "Come with me." He was considerably impressed at my agitation, but made no objection, and we walked up towards the War Department. I inquired where he had slept the night before, and where Holloman was. He said that as he had formerly been employed in the quartermaster general's office, some of the clerks had tendered him and Holloman for the night and they had both slept there. (It had never entered my head the night before to examine the military offices of the government.)

As soon as I reached my room I telegraphed over to the Quartermaster Department and he returned almost immediately with Holloman.

Putting them both in my room and putting a sentinel at the door so that they should not again vanish, I took the card that I had taken with me in my interview the day I fell with Mr. Stanton, and went into his room. It was then just about eight o'clock. As I came in, Mr. Stanton, who was then seated at his desk, looked up and said, "Well, have you those men?" I said, "Yes, Mr. Secretary, they are in my office." His whole manner and countenance changed from that of a grim-faced determination to that of a pleased smile, and I said: "I was then a good deal aroused and indignant, and I turned upon him and said, 'And now, Mr. Stanton, I am through with the service under you and I beg leave now to tender my resignation to take effect immediately. You would have condemned and disgraced me without a hearing for obeying your own order, and I am determined I will serve further under any such man. Here is the card I brought into you yesterday in which the names of the two witnesses were written, whose names I gave distinctly to you, and on it I wrote the order you gave me, namely, to take their statements, let them go, and have them report from day to day.' Here it is, and this order I implicitly obeyed, now I am through with you and through with the service." He got up from his desk, came over to where I was standing, placing one hand on my shoulder and said, "General, I ask your pardon. I was wrong, but remember the great strain I am under in trying to save the country. In seeking to redress the lost and the public rights, sometimes individual right gets down. I am doing the best I can with all the power with which God has endowed me. Forget this matter and go back and go on with your work and help me and the great work I am trying to do."

Thus ended the matter so far as I was concerned, and I went back and went on with my work.

Prior to the first of May the president, Andrew Johnson, officially called upon the attorney-general, James Spauld, for an opinion as to whether or not the persons implicated in the murder of the president and the attempted assassination of William H. Seward, secretary of state, and in an alleged conspiracy to assassinate other officers of the government, and their aids and abettors, were lawfully trouble before a military commission in Washington, and the attorney-general having given his opinion in response thereto, that the said parties were so lawfully trouble, on the 1st day of May the president ordered the adjutant-general to detail nine competent military officers to serve as such commission. On the 6th of May the adjutant-general issued an order appointing a military commission to meet at Washington on the 8th of May for the trial of Herchl, Alzeroff, Payne, O'Mahlin, Spangler, Arnold, Mrs. Surratt, Dr. Mudd, and such persons as might be brought before it implicated in the murder of the late President Abraham Lincoln, and the attempted assassination of Hon. William H. Seward, secretary of state, and in an alleged conspiracy to assassinate other officers of the federal government at Washington city, and their aids and abettors.

The detail of the court was as follows: Maj. Gen. David Hunter, Maj.-Gen. Lewis Wallace, Brevet Maj.-Gen. Augustus V. Kautz, Brig. Gen. Alphon P. Howe, Brig. Gen. Allen S. Foster, Brig. Gen. T. M. Harris, Brevet Brig.-Gen. James A. Ekin, Col. C. H. Tompkins, Lieut.-Col. David T. C'landenn.

Brig. Gen. Joseph Holt was appointed judge advocate and member of the commission, and the Hon. John A. Bingham and myself were assigned as assistants or special judge advocates.

The court convened on the 9th of May, but adjourned to the 11th, to afford the accused an opportunity to procure counsel. The charge against the accused was for conspiracy in aid of the existing rebellion against the government with Booth, Surratt, Jefferson Davis, Saunders, Tucker, Thompson, Clary, Clay, Harper, Young and others unknown, to kill and murder Abraham Lincoln, president of the United States, and commander-in-chief of the army, and Andrew Johnson, then vice-president, W. H. Seward, secretary of state, and General Grant.

The specifications set forth the net or acts of the accused, done and performed in the prosecution of said conspiracy.

It is not my purpose to review the history and steps of the conspiracy as developed by the proof submitted to the court. It is sufficient for the purpose of this paper to say that nine brave soldiers and intelligent and conscientious officers, after two months of careful and laborious investigation, did find and decide that the accused, together with Surratt, Booth, Jefferson Davis and his rebel agents and confederates then in Canada, namely, George N. Saunders, Beverly Tucker, Jacob Thompson, William C. Clary, Clement C. Clay, George Harper and George Young, were guilty of conspiring to kill and murder President Lincoln, Vice-President Johnson, Secretary Seward and General Grant. It should be remembered also in this connection, that during all the two months of this investigation by the commission, each of the accused were represented by one or more able counsel, among whom were the Hon. Beverly Johnson, of Maryland; Gen. Thomas Ewing, then of Washington, Frederick A. Arkin, W. E. Fisher, Walter S. Cox and Frederick Stone, and that the whole power of the government was put at the service of the accused and used unreservedly by their counsel to bring from any part of the United States any witnesses they might desire.

Some of the counsel for the accused seemed to be as much convinced as the court of the guilty participation of the rebel authorities at Richmond and their confederates in Canada in the conspiracy to assassinate President Lincoln. Cox said in his argument, "the assassination of the president and other heads of government may have been discussed in the South, as a measure of ultimate resort to retrieve the fortunes of the Confederacy when at their lowest ebb, the rebel agents in Canada may have individually signified their approval of the measure in the abstract, long since; but I undertake to maintain upon the evidence that there never was any final determination, on the part of any person or persons, with whom any of these accused can possibly be connected, actually to attempt the life of the president or other functionary until a few days—about one week—before the murder." Again he says, speaking of Booth, "The theory of the prosecution is that Booth, who is acknowledged to have been the head and front and seal of the conspiracy, if there was one, was only the birthing tool of the rebel conspirators; I think he was probably something more, but it will not vary the result. I think he was probably actuated, not only by the sordid hope of gain, but by a misguided, perverted ambition. Of strong will and passions, and high nervous organization, accustomed to play parts and those of a tragic character, he had contracted perverted and artificial views of life and duty, and had aspired to be the Brutus in real life that he had been or seen on the boards. He well knew, however, that the act he contemplated would be execrated all the world over, except possibly among those whom he intended to serve. Therefore, whether pecuniary reward or false glory was his object, he could hope for neither until he was secure of their approbation. Whatever his principle of action, he was wisely willing to live for a desperate and reckless taking until he supposed he had the approval of the rebel authorities. When does the evidence show this was given?"

Mr. Cox then proceeds to review the testimony, or a portion of it, given upon this point, and adds, "Thus, in the end there is seen to be a substantial accord between all the three witnesses, on the important question when the formal sanction of the Richmond authorities was received in Canada, and when consequently for the first time they were in a position to give their formal and official approval to the proposed assassination."

Let me say here personally, after this quotation from the argument of counsel for the accused themselves, that my own judgment upon their testimony was at the time that while the proposed enterprise of assassinating the president and vice-president, members of the cabinet and General Grant had

been brought to the attention of the Richmond authorities and to Jefferson Davis, there was no reluctance on either side to show that Davis sanctioned or approved this undertaking. The proof, I think, also shows that it was brought to his attention and that he did not condemn or undertake to suppress the movement. That the confederate agents in Canada did actually take part in forwarding and forwarding the conspiracy, I think was conclusively established.

As early as November, 1864, Booth was considering wild schemes either of forcible abduction of the president or assassination, and was busy from that time down to the day of the assassination in trying to select others in the devilish enterprise.

It is part of the unwritten history of the time that on the day of President Lincoln's second inauguration, and while he was delivering his inaugural address, Booth sat near and just behind him with the purpose to stab him to death then and there if any fit opportunity should occur in the press and confusion of the crowd, for him to do the deed and make his escape. That while the great president was uttering his immortal words, "With malice toward none, with charity for all," this armed assassin was near his side clutching the knife with which to stab him to death. Another curious fact connected with this event is that Booth secured his ticket of admission to these ceremonies through a United States senator, one of the most faithful and earnest of the Union republiken groups, and that it was procured through the intervention of his daughter, who, although she had only a casual acquaintance with Booth, had often seen him on the stage, and, like many of the romantic young ladies of our own time, had caught the fever of stage-horn worship.

Later on in the same month of November, an actual attempt was made to forcibly abduct or assassinate the president. About the 20th of that month a party of seven armed and criminal men, four of whom were Booth, Surratt, Payne, and Alcott, appeared at Mrs. Surratt's house and took away on some desperate enterprise—alleged to have been the capture of the president on his way to or coming from the Schiller's House, and delivering him into the hands of the rebels. Through some cause not known, the plan was frustrated, and Booth, Payne, and Surratt returned to Mrs. Surratt's house very much excited and engaged over their failure. Surratt threatened to shoot any one who approached his room, uttering wild exclamations that his prospects were gone, his hopes were blighted. In the afternoon, after Surratt and his party had departed on this enterprise, Mrs. Surratt was found in the hall or passage-way of her house weeping bitterly, and said to one who attempted to console her, "John is gone every!" grieving as though he was not to return, and showing some knowledge of the expedition.

About the 1st of April, 1865, Booth went to New York and returned to Washington on the 8th, and from that time was busy with his confederates in maturing his plans for the proposed assassination of President Lincoln and the others. I do not propose to give you the evidence submitted to the court bearing upon the general conspiracy and the act of assassination and the connection of each of the accused therewith, further than to give him by the circumstances of the assassination of the president.

On the evening of the 14th of April, 1865, Major Rathbone and Miss Harris, of Washington, joined the president and Mrs. Lincoln and dined with them in the president's carriage to Ford's Theatre, reaching there about half-past eight. When the president reached the theatre and the fact became known, the actors stopped playing, the band struck up "Hail to the Chief," and the audience rose and welcomed him with cheers and shouts of applause. The party passed to the right into the president's box in the second tier which was on the left of the stage. The president seated himself in an arm chair, which had been provided for him that afternoon by Mr. Ford, to the left of the box, and faced the audience. Mrs. Lincoln sat next on the right of the president and on her right was Miss Harris, and immediately behind her sat Major Rathbone.

About nine o'clock of that evening Booth rode into the alley on the rear of the theatre and called upon Spongler, a stage carpenter employee of the theatre, to hold his horse. Spongler was a young man named Barrons, another employee. Booth slipped into the theatre through the rear door, took a brief survey of the house, passed out the same way, and soon after appeared at the front. There he held a private and hurried conversation with two or three persons. Just before ten o'clock he went into a saloon near the theatre and took a drink of whiskey. He then came out and joined his confederates, the party he had been conversing with, and then passed into the passage leading to the stage from the street. At this time one of the confederates stepped into the vestibule of the theatre, looked at the clock, came out and called the time, started up the street, was gone a few minutes, returned, looked at the clock, and called the time again. By this time Booth had reappeared in front of the theatre. Presently the same party who had called the time came and looked at the clock and called the time again in a loud voice, "ten minutes past ten." He then started up the street and Booth passed into the theatre. As stated, this was about ten minutes past ten o'clock, and was during the second scene of the third act of "Our American Cousin," then being performed by Laura Keane and her company at Ford's Theatre. Booth passed to the right up near to the president's box, where he stopped a moment and leaned against the wall. He then stepped down one step, placed his hand on the door of the passage leading to the president's box and his knee against it, and pushed the door open. He then placed a brace against the door on the inside, which had previously been prepared whether by him or some one of his confederates for the purpose of preventing an entrance or intrusion from the outside, passed along the passage way to the door on the left opening into the president's box, stopped and looked through a hole which had been cut in the door to see the president's position, and if his attention was concentrated upon the stage, softly pushed the door open and entered, as was describing him, then, standing within two or three feet of the president, fired. The ball entered the back part of the left side of the head of the president. The pistol used was a large sized Durringer, about six inches in length, carrying a large bullet-mark ball. Upon hearing the discharge of the pistol, Major Rathbone looked around and saw through the smoke a man between the door and the president. At the same time he heard the man shout some word which he thought was "freedom." Another witness thought he shouted "Betrage for the South!" Booth, the moment he fired, dropped his pistol and drew a long knife. Major Rathbone instantly sprang upon him and seized him. Booth wrestled himself from the major's grasp, and made a violent thrust at his breast with the knife, which Rathbone parried, receiving the wound in his left arm between the elbow and the shoulder, about one and one-half inches deep and several inches in length. Booth then rushed to the front of the box, Major Rathbone attempting to seize him again, but only caught his clothes as he was going over the railing. Booth put his left hand on the railing, holding in his right hand the knife, point downward, leaped over and down to the stage, about twelve feet. As he was going over or descending the spur on his right foot caught in the rug, which had been draped in front of the president's box in honor of his presence, and clung to it, causing his left foot to partially turn under him as he struck the stage, and thereby one of the bones of his left leg was broken. And it not been for this accident Booth doubtless would have made his escape, into Virginia within the confederate lines, possibly out of the country. Thus it was that the immortal flag was a mute witness in the tragedy that marked the president's murder. Booth, as he fell across the stage, partially turned facing the audience, threw up his head holding the gleaming knife, and shouted "See seaper tyrants!"

In taking the statements of persons at the theatre who had witnessed the tragedy, an Irishman in the second row said that Booth shouted as he fell across the stage, "Am sick, send for McMurran!"

Booth passed out by the right side of the stage and through the passage in the rear of the theatre, reached his horse, which Barron was still holding, let him a blow with the handle of his knife, let across the rear yard bridge, and arrived at Lloyd's tavern, Maryland, about twelve o'clock at night. On the way he had been joined by Harold.

Stopping at Lloyd's tavern in Smartsville, Harold dismounted and went into the house, saying to Lloyd, "For God's sake, make haste and get these things!" Lloyd, understanding what he wanted from the satisfaction given him by Mrs. Surratt on the day previous, without making any reply went and got the carriages which he had placed in his bedroom that they might be handy, and brought them to Harold together with the ammunition and field glass that had been deposited with him, and the two bottles of whiskey that Booth had ordered through Mrs. Surratt the day before. Harold carried out to Booth one of the bottles of whiskey, drinking from his own bottle in the house before going out. Booth declined taking the carriage, saying his leg was broken and he could not carry it. As they were about leaving Booth said to Lloyd, "I will tell you some news if you want to hear it. I am pretty certain that we have assassinated the president and Secretary Seward." The moon was now up and shining brightly. The next heard of them was at the house of

Dr. Samuel A. Mudd, near Bryantown, in Maryland, and about thirty miles from Washington, where they arrived at about four o'clock on the morning of the 13th.

Booth's leg had been broken by a fracture of the fibula, or small bone of the left leg, when he fell on the stage on leaping from the president's box, and by this time had become very painful. He needed rest and surgical treatment, but he could get neither, for although he had reached the house of a co-conspirator, who was a country doctor, and well disposed to render him all the aid he could, he appeared to have made a very bungling operation, dressing the broken limb with some plasterboard and a bandage which gave out a very imperfect support. As to the rest he required, that was impossible, for although Mudd placed him in an upstairs room and kept him until the afternoon, he was admonished by seeing a squad of soldiers under Lieutenant Dana passing down past Mudd's place, which was a quarter of a mile off the road to Bryantown, that there was no rest for him; and as quickly as it could be done, after the soldiers passed, Mudd got rid of his dangerous charges by sending them by an unfrequented route to the house of his friend and neighbor, Samuel Cox, about six miles nearer to the Potomac. Booth was on no new ground, neither amongst strangers either to his person or to his wicked purpose. He had spent a good deal of his time during the previous fall in that part of Maryland, preparing a way for his escape after accomplishing his purpose. His way had seemed clear to him in advance; his route had been selected; his friendly acquaintanceships secured. But alas! the broken leg. Under the guise of looking at the country with a desire to purchase lands, he had perfected all his arrangements and had expected to pass swiftly over his route, accompanied by Atzerott (whose home was in its neighborhood and who knew all about the contraband trade with the rebel capital, the underground mail route between Richmond and Washington, and all of the people engaged in these operations and also the places and facilities for crossing the Potomac), and also by Payne and Harold. He had purposed to be safe on the soil of the Old Dominion ere this time. Instead of realizing all this, he found himself a cripple, scarcely able to travel, and closely pursued by those whom he knew to be on his track, with no other resource than his divided but inefficient friend Harold.

Mudd had done all he could to relieve him, but dare not try to conceal and keep him. He could only forward him to the next stage of his journey and to a safe place of concealment. Thus he faithfully did. Cox lived near Port Tobacco, the home of Atzerott, and as his was too public a place to afford safety to the fugitives, he turned them over to his neighbor, Thomas Jones, a contraband trader between Maryland and Richmond, who, in the midst of a constant scouring of the country by pursuing parties, kept his large concealed in the woods near his house, supplying them with food and doing everything he could for their comfort, waiting and watching constantly to find an opportunity to get them across the Potomac. They were united so closely that they could hear the mingling of the horses of the troops, and fearing they might be betrayed by their horses answering the calls, Harold led them into a swamp near where they lay concealed in the pines and out them.

The river was being continually patrolled by gunboats, and the task of getting his wards across proved both difficult and dangerous to him. He proclaimed offering one hundred thousand dollars for the capture of Booth and warning all persons from aiding the fugitives in any way. A warning their escape had been published broadcast, yet Jones was true. Neither the offered rewards nor the warnings of the people made any effort on him; for a whole week he kept them secreted in the pines on his premises, where Booth lay night and day wrapped in a gray of blankets that had most likely been furnished him by Dr. Mudd. Finally, being furnished by Jones with a boat, they took their own risks and effected a crossing, but they were seen by a colored man through whose report General Baker got on their track and finally effected their capture.

There can be no doubt that Booth had selected this as the route for his escape months before, and that all of his visits to this part of Maryland had been made with reference to this plan. Being at length across the Potomac, even though under such unfavorable auspices, Booth no doubt drew a free and exultant breath at having been permitted to set his foot at last on the soil of the Old Dominion. He felt that he was now amongst friends who would aid him in his flight or help him by concealment, and his friend Jones doubt breathed with a freedom he had not known for some days of finding himself relieved from his dangerous charge. Booth was greatly disappointed at the cold reception given him by the people on whom he had counted so much after crossing into Virginia. He had expected to be hailed and honored as the hero of the age; but instead of that he received a comparatively cold reception that stung his vanity like the poison of an asp.

It is true the people showed no disposition to betray him; but, at the same time, they manifested a disposition to enter into no compromising friendship with him, and in a limited way only to assume any responsibility in his behalf by helping him to escape. Sad, indeed, was Booth's condition at this time. More than a week had elapsed since he had perpetrated his great crime and commenced his guilty flight, and now he found himself on foot, so lame in such pain as scarcely to be able to walk a step, even with the help of a crutch, and scarcely more than fifty miles from his starting point. His companion in crime, Harold, was now the only human being on whose friendship and fidelity he could certainly rely.

By the aid of this blind follower he was able to maintain his concealment, and after a wretched fashion to resume his flight in an old wagon drawn by two miserable horses and driven by a negro. In this state he reached Port Conway, on the Rappahannock, in King George county, Virginia. Here his driver refused to take him further. It is just at this juncture and in this place that they were met by three Confederate soldiers, Major Ruggles, Lieutenant Bainbridge and Captain William Jett, the latter of Mosby's command.

Harold, thinking they were recruiting for the rebel service, was quick to see in them a means of assistance in getting Booth and under the protection of the stars and bars, and so revealed their identity, appealing to them for assistance. A little later, Booth getting out of the wretched conveyance, came forward, and to assure himself of their disposition toward him, asked them with the interrogatory, "I suppose you have been told who we are?" Then throwing himself back on his crutch, and straightening himself up, with pistol cocked and drawn, he said, "Yes, I am Wilkes Booth, the slayer of Abraham Lincoln, and I am worth just one hundred and seventy-five thousand dollars to the man that captures me." His attitude and speech was dramatic and that of a man at bay, under the power of a desperate purpose never to be taken alive. These three officers of the Confederate army (for they were such at this time, not having been paroled), whilst mildly protesting that they did not sanction his acts as an assassin, assured him that they did not want any blood money, and promised to render him all the assistance in their power in making his escape, a promise which they faithfully kept. Major Ruggles dismounted and placed Booth on his horse, when the whole party crossed over the Rappahannock from Port Conway, in King George county, to Port Royal, in Caroline County, Virginia, and after an ineffectual search for final quarters for Booth in the town, they took him three miles on the road to Bowling Green, the county seat of the latter county, where they succeeded in getting a man by the name of Garrett to take him in, with the understanding that he would do all he could for his comfort and safety. Garrett took Booth and Harold in with a full knowledge of all the facts in the case, and with some manifest reluctance from a knowledge of the danger he would thus incur.

Bainbridge went on to Bowling Green, whilst Ruggles and Jett remained over night in the woods near the house, Booth being his ward on the remises and cared for. On the following day Captain Jett went to Bowling Green on a visit, prompted by the tender passion, where he remained a few days, and Lieutenant Bainbridge returned to the Garrett farm, where he joined Major Ruggles. The two started for Port Conway, but before getting there learned that the town was full of Union cavalry, when they lost all time in returning to Garrett's and gave warning to Booth, advising him to see no time in fleeing to a place of woods, which they pointed out to him, and then turned to look after their own safety. The cavalry of which they got this notice was a squad detached from the Sixteenth New York Regiment, commanded by Lieutenant Dougherty, which had been ordered to report to Gen. L. C. Baker of the Secret Service Department.

Arriving at Port Conway on the afternoon of the day subsequent to the crossing of the parties above referred to, and finding the wife of the ferry keeper at the ferry house sitting and conversing with another woman, Colonel Conger exhibited to them a photograph of Booth, and informed them that that was the man they wanted. It at once became apparent to him, from the manner and actions of the women, that Booth was not far off. The cryer, a man by the name of Collins, was a bit lout, and being influenced no doubt by fear of compromising himself, became very communicative. He told them all about the party that had crossed the day before, one of them,

Captain Jett, to North Street, Cambridge, and Jett had been paying attention to a Miss Giffiths, the daughter of a Boston house painter. Cooper, he suggested that he would call on her, and that time, following her mother on with his usual old manner, communicated to Captain Jett, Lieutenant E. P. Dougherty, to Herding James, passing the Barrett house, the date.

Arriving at Giffiths's house, I inquired of Mrs. Giffiths as to the men that were in the house. She answered him that her youngest son was in a room upstairs, and that he was all the men there was there. Colonel Cooper then inquired for the man upstairs, telling her at the same time that if his men were fired on, he would leave the building and cover the inmates to Washington as prisoners. And out of the room which she showed him, up one flight of stairs, Captain Jett, except Jett of half-dressed, and admitted his identity. Colonel Cooper then claimed to be that he was ignorant of his movements for the last two hours, and promised to send to him the particulars of the events of war, telling him that he had done nothing at that if he did not tell him the truth he would hang him, but that if he truly gave him the information that he sought he would protect him. Jett was greatly excited, and told him that he had left Booth at the Garrett farm, three miles from Port Royal. The colonel then had Jett's horse taken from the stable, making Jett his smouldering guide to the place of Booth's concealment.

Arriving at Garrett's, the cavalry was so disposed as to prevent any one from escaping, and after having captured, by threats, the information that Booth and Herold were concealed in the barn, it was at once surrounded. They were ordered to come out and surrender themselves, which Booth refused to do. After a considerable search, Herold came to the door and gave himself up. He was followed by the watchmen of Herold. Booth still refused to surrender. A wisp of hay was fired and thrown on in the hay in the barn. From this start the barn was soon lighted up with the flames of the burning hay. Booth was known to be armed and desperate, and as the burning hay began to dissipate the smoke he was seen, and he was fired, passing through the cracks, and trying to get on some. He had before offered to fight the crowd for a chance of his life if the crowd would wait without his men in hundred yards. Being answered that they had come to capture him, not to fight him, he was preparing to sell his life as cheap as possible. At this moment, Sergeant Boston Corbett, of the Seventh New York Cavalry, fired at Booth through a crack in the barn, upon his own responsibility. The bullet struck Booth on the back of his head, very nearly in the same spot where his own fall struck the President, only a little lower down, and passing obliquely through the base of the brain and upper part of the spinal cord, it produced instantly almost complete paralysis of every muscle in his body. I saw the wound, the series of convulsive efforts struggling to keep proper very difficult and imperfect respiration, and a quick action of the head for a few hours. After Booth was shot he was carried to the burning barn and laid under the slash of a tree on the beam of the Garrett premises. He was perfectly clear in his mind, but could not swallow, and was scarcely able to utter a few words to be understood, although he seemed anxious to talk. He requested the officer who was heading near him trying to administer to him to tell his mother that he died for his country. Booth expired in great agony on the 25th of April, twelve days after the commission of his crime.

The body was brought to Washington and identified fully. It was buried for a time secretly under the floor of the old Capitol prison, but afterwards was given to his friends and taken to Baltimore and there buried in an unknown and unmarked grave.

At the moment the President was shot he was leaning with his head or arm resting on the railing of the box, looking at some person in the orchestra, holding the flag with his left between it and the post, he raised his head on instinct and then it fell backward. He was carried to the residence of Mr. Peterson, just opposite the theatre, where he expired about seven o'clock on the morning of the 15th.

The trial of the accused occupied the sessions from the 10th day of May to the 30th day of June, inclusive, and resulted in the conviction of Herold, Atzerdt, Payne and Mrs. Surratt, and their sentences to be hanged at such time and place as the President might direct, and the conviction of Dr. Fonghtlin, Spangler, Arnold and Mall, and the sentence of all except Spangler to imprisonment at hard labor for life. On July 5, 1865, these sentences were approved by President Johnson, and the sentences of Herold, Atzerdt, Payne and Mrs. Surratt were ordered to be carried into effect on the 7th of the same month, between the hours of ten o'clock a. m. and two o'clock p. m.

On the morning of the 7th a writ of habeas corpus, issued by Justice Wyke, of the Supreme Court, of the District of Columbia, was served upon General Hancock, commanding him to produce before his honor the body of Mrs. Surratt. Justice Wyke signed the order for the return of the writ at ten o'clock in the morning, and at half past eleven General Hancock appeared in person, accompanied by Attorney General Speed, before his honor, and submitted the following return:

I hereby acknowledge the service of the writ herein attached and return the same, and respectfully say that the body of Mary E. Surratt is in my possession, under and by virtue of an order of Andrew Johnson, President of the United States and Commander of the Army and Navy, for the purpose in said order expressed, a copy of which is hereto attached, etc., and that I do not produce said body by reason of the order of the President of the United States, unless upon writ writ, in which reference is hereto respectfully made.

The President's endorsement was:

"I, Andrew Johnson, President of the United States, do hereby declare that the writ of habeas corpus has been lawfully suspended in such cases as this, and I do hereby expressly suspend it as writ and direct that you proceed to execute the order heretofore given upon the judgment of the military commission, and you will give this order in return to the writ."

The court ruled that it related to the suspension of the writ of habeas corpus by the President, and the sentences were duly carried into execution.

No trial which ever took place in this country excited so much interest throughout the whole land as did the trial of these conspirators and assassins. Not only because of the great love of the people for Abraham Lincoln, but from a natural desire to learn from one a testimony how such a great man was the conspiracy, what was its scope and purpose, who actually took part in carrying it into execution, and how far the civil authorities in Richmond and their agents in Canada had knowledge of the proposed assassination of the heads of the government, sanctioned it, aided it, and were responsible for it. Perhaps some additional interest was excited by the fact that a woman was charged with being one of the conspirators.

For this trial, and especially for the trial and execution of Mrs. Surratt, that portion of the press and the persons sympathizing with the late rebellion indulged in most fatherly comment on the court, the judge advocates, General Hartshorn, who was in command of the detail having the prisoners in charge, and who carried into execution the sentence of the court, and of General Hancock, who was in command of the military forces in and around Washington. No falsehood was too extravagant to be imagined, stated and believed. As an illustration of this, I remember once, in passing along a street in Cincinnati, when a lady beside whom was standing one of these rebel sympathizers heard me with a bow and a pleasant smile. The gentleman turned to her and said, "Do you know who that is you have just heard her?" "Oh yes, very well," she said. "Well, do you know that is being Mrs. Surratt with his own hand, and smiled as he came down from the scaffold?"

The fact being that I never saw one of the accused after the close of the trial on the 30th of June, and that I left Washington soon after the close of the trial, I think on the 30th of July. But an illustration still further the unwholesome representations of it followed the trial, let me recall to your minds the letter of Mrs. Jane Swasey, published in the New York Tribune of September 16, 1865. In the letter she gives the impression that Mrs. Surratt was marched in court during her trial, and vividly pictures how on one occasion she (Mrs. Swasey) was present in the court, and gave public exhibitions of her suffering and indignation at this outrage and cruelty. The Washington Chronicle, noticing the letter of Mrs. Swasey's, addressed a note to Mrs. Surratt's counsel, M. Allen, making inquiry as to the fact. He replied as follows:

"I have your letter of the 14th, enclosing the letter of Jane G. Swasey, published in the Tribune, the 16th inst., and asking me, 'Is her statement true that Mrs. Surratt was marched during her trial?' Without reference to any other fact, or to any of the details of the case of that most unfortunate lady, I have to say in reply that at no time during her unhappy trial was Mrs. Surratt marched, either in her wrists or her ankles, while in the presence of the court. I not only speak from my own absolute knowledge, but from recollections of Mrs. Surratt's alleged statements to me that she was not marched."

The Chronicle adds, "Now, can any fair-minded person, however prejudiced, come to any other conclusion than that the garrulous lady had willfully and maliciously misrepresented the facts for the mere purpose of glorifying

self?" I must agree with this conclusion because I know personally that Mrs. Surratt was not manacled, and that no such scene as Mrs. Swinburn described ever took place in the courtroom. But this letter of Mrs. Surratt's counsel did not put underground the falsehood that she was manacled during her trial—periodically it reappears, fresh and vigorous.

General Hancock was especially demure because he was obedient to the order of the President—the Commander in Chief of the Army under the constitution—and had failed to deliver Mrs. Surratt over to the custody of the court under the habeas corpus proceedings. His rivals and enemies made most unscrupulous use of this weapon against him as soon as he became prominently talked of as Democratic candidate for President in 1880.

In 1871 one of the leading papers of St. Louis said: "Quite a number of the Federal officers, dissatisfied with the political character and partisan purposes of the late war, resigned their positions in the army at one time or another. Some of them felt that the 'Union' had somehow come to be a secondary consideration in the fight, others, that it was a merely partisan struggle for the ascendancy. But General Hancock, the favorite of a few Western Democrats as a candidate for President, seems to have detected none of these objections. He did his duty like a stolid serving man through the war. When at New Orleans, he issued an order that made his great capital among the Southern people, and, when at the North, he distinguished himself equally as a Federal zealot. It was General Hancock, then in command of the Middle Military Division of Washington, who declined to interfere with the order of the court-martial sentencing Mrs. Surratt to death. It was he who became himself party to one of the most heinous crimes ever perpetrated in the name of justice."

This sort of criticism and abuse indelivered many an hour of General Hancock's life up to the day of his death. General Hancock, as we all know, who knew him well, in his personal relations with his fellow-men was as kindly and gentle as a child, was a man with the highest ideals and rules of conduct, and as a soldier was as brave and knightly as ever buckled sword.

Of a peculiarly proud and sensitive disposition, any word which assailed either his personal honor or his record as a soldier tortured him like a festering wound.

He talked with me several times about these attacks which had been made upon him, and in 1873 I determined to write an article reviewing some of the incidents of the trial of the assassins and General Hancock's relation to it. This purpose I made known to him; and he then informed me that an article had been prepared by some friend of his upon the subject, and if I wished he would have it sent to me, and I could make such use of it in the preparation of my article as I wished. It was subsequently sent to me, and I still have it in my possession. About the same time I received from him the following letter:

"New York, October 1, 1873.

"My Dear General: General Mitchell has the paper I spoke to you of. I reached me this m. m. If you will notify General M. (W. G. Mitchell) when to send it out when, I will send it by messenger to you.

"The latter part of the paper contains the matter I particularly desire you to see, although it might be well for you to read the whole. You are at liberty to use any part of it verbatim or not. It was not printed. I should be pleased if you would preserve the paper for me.

"I leave for St. Louis this p. m. The only true plan is to meet and crush out this Surratt matter, not to 'dally it'—as this paper, for example. It is about my idea of meeting the question.

Yours truly,

"WINSTON S. HANCOCK

"To General Burnett, N. Y."

This paper is too long to present here, but I will give only a few extracts showing General Hancock's views of his relation to the habeas corpus episode and Mrs. Surratt's connection with the conspiracy. I quote from the paper as follows:

"On the 7th day of July, 1865, the day of the execution, the Honorable Andrew Wythe, a judge of the supreme court of the District of Columbia, issued a writ of habeas corpus directed to General Hancock, commanding him to produce the body of Mary E. Surratt in court. Thereupon Andrew Johnson, as President of the United States, and as such superior in authority to General Hancock, assumed the responsibility of suspending the writ of habeas corpus and setting aside the order of the judge. The President's order was in these words, and was indorsed on the writ of habeas corpus. (Here is given the President's order, as given above.)

"Nevertheless, General Hancock deemed it his duty to appear before Judge Wythe and submit himself to the judgment of the civil court. Having appeared before the civil court, General Hancock filed the following statement in writing, in obedience to the command of the writ of habeas corpus, setting out the return above.

"Judge Wythe said: 'The court finds itself powerless to take any further action in the premises, and therefore declines to make an order, which would be vain for any practical purpose. As regards the delay, it having been fully accounted for, the court has no fault to attach to the respondent (General Hancock) in that respect.'

"Against such a record as this nothing but inveterate malice would prefer a censure against General Hancock. The conduct of General Hancock was not only dutiful and obedient to the civil authority, but such as to manifest for that authority profound respect and reverence.

"It was not necessary he should appear in person before the court. He went, however, laid aside the sword, and submitted himself to its judgment. He could have assumed no part of defiance. He could have spurned the puny power of the civil magistracy, who had presumed to send his mandate to a military commander of a hundred thousand soldiers. But no, he deemed it an imperative duty to submit himself personally to the authority and jurisdiction of the court.

"If General Hancock was responsible for the non-production of the body of Mrs. Surratt, the Court was armed with jurisdiction to fine and imprison him for the dereliction of duty and for a contempt of the authority of the court.

"But the court did neither. Judge Wythe dismissed the general from his court without punishment and without censure, assigning the failure of the writ, not to an act of General Hancock, but to the act of the President. The suggestion that General Hancock should have resigned is simply silly. His resignation could have no tendency to bring the body of Mrs. Surratt into court or to prevent her execution.

"It has been a common thing for those who, from political partisanship or personal malice, have been most violent in their clamor against General Hancock in this connection, to omit all mention of the other parties who suffered with Mrs. Surratt. It would seem as if, in their opinion, no human crime was perpetrated in the execution of Herold, Atzerott or Payne. The reason for this is plain enough. There is always sympathy for a woman. And it is supposed that much will be revealed for her which could not be asked in the case of another person. It is quite unnatural to our present purpose whether Mrs. Surratt was innocent or guilty of the crime for which she suffered, since General Hancock was in no wise responsible for it. But when she is pronounced perfectly innocent and her execution 'an inhuman murder' committed by nine respectable officers of the army, and by the approbation of the President, without evidence of guilt, it is not amiss to state the simple facts of her case.

"That nine men of ordinary respectable character in the Federal army, colonels, brigadiers and major-generals, should have been so lost to all sense of duty and humanity, so ineffably brutal, as to sentence a woman to death for nothing, is a very strong proposition.

"Any one who looks into the evidence will find out that for some weeks before the assassination Mrs. Surratt was holding frequent private interviews with Wilkes Booth; and was also in terms of intimate communication in her own house with Lewis Payne, alias Wood, alias Pizzell, who attempted the life of Mr. Seward. Some weeks before the assassination, John H. Surratt, David E. Herold and George A. Atzerott left at the house of a Mr. Floyd, near Washington, two carbines, ammunition, and a rope sixteen to twenty feet long, which was laid away under a joist until they should be wanted. On the Monday preceding the assassination Mrs. Surratt came to Floyd's house and inquired about the 'shooting-irons' and told Floyd 'they would be wanted soon.' On the very day of the assassination Mrs. Surratt was at Floyd's house again, and told him 'to have the shooting-irons ready for that night.' She then gave Mr. Floyd a field-glass and asked him to have all the things ready, with two bottles of whiskey, for the parties who would call for them in the night, and left.

"True to her prediction, at about a quarter-past twelve o'clock the same night, Booth and Herold came to Floyd's and called for the carbines, field-glass and whiskey, which Floyd delivered to them according to Mrs. Surratt's direc-

We had passed and speed, and as we went phum and crab-apple trees and steep ditches lurked in the background. "Where is Lincoln?" we inquired. "Oh," he answered, "I am here last, he had got two young birds which the wind had blown down on their nest, and he was hunting the nest to put the birds in it." The next time Lincoln came up, having found the nest and placed the birds in it. The party laughed at him, but he said, "I could not have done it if I had not noticed the little birds to their mother." Yet will remember the his letter to the mother who had given all her care to her country.

"I have been down," he says, "to the bottom of the war of partition a statement that you are the mother of freedom who have died particularly on the field of battle. I follow you and see to it that my words of praise which should attempt to beguile you from your grief to a low and selfish clinging, but I cannot refrain from testifying to the noble resolution which may be found in the thanks of the Republic to the dead. I pray that our Heavenly Father may avenge the anguish of your bereavement and leave you only the cherished memory of the loved and the lost, the noblest of truths that must be yours to have laid so easily a sacrifice to the altar of freedom."

I find nowhere a better statement of the place of the man and of his attributes than in Cheab's address upon Mr. Lincoln before the Edinburgh Philosophical Institute on November 1, 1892. He says: "The growth and development of Lincoln's intellect, and moral force, of his intense and magnetic personality, after the responsibility of government were thrown upon him at the age of 66, was a further and striking illustration of the marvellous capacity and ability of the man in intellect—of the sound mind in the sound body. He came to the discharge of the great duties of the presidency with abundant experience in the administration of government and of the social, moral and complicated questions of foreign and domestic policy which seemed daily to come and continued to press upon him during the rest of his life. But Lincoln's intellect, as it came, apparently with the facility of a trained and experienced ruler. As Channing said of Cromwell, 'He puts a sword in a man's hand and a man of great station.' His life though it all was one of intellectual activity and distress, without one hour of painful repose from his work. But he rose to every occasion. He led public opinion, but did not mean to take in advance of it as to find of its effective support in every great emergency. He knew the heart and thought of the people, and in every crisis of our and of a late sympathy with them could have known it. In his labors, then, confidence, he triumphed through and with them. Not only was there the steady growth of intellect, but the infinite delicacy of his mind and its capacity for refinement developed as exhibited in the purity and perfectness of his language and style of speech. The rough backwoodsman, who had never seen the inside of a university, became in the end, by self-training and the exercise of his own powers of mind, heart and soul, a model of style—and some of his utterances will rank with the best, the most perfectly adapted to the occasion which produced them."

And as a terse summing up of his characteristics, the words of Emerson, "His occupying the Chair of State was a triumph of the good cause of mankind and of the public conscience. He gave no outlet to the word, his mind mastered the problem of the day; and as the problem grew, so did his comprehension of it. In the war there was no place for timidity, ingenuitè, nor fair weather sailor. The new pilot was hurried to the helm in a tempest. In four years—four years of battle days—his endurance, his fertility of resource, his magnanimity, were sorely tried, and never found wanting. There, by his courage, his justice, his even temper, his faithful counsel, his humanity, he stood, a heroic figure in the centre of a heroic epoch. He is the true history of the American people in his time, the true representative of this continent—father of his country, the pulse of twenty millions throbbing in his heart, the thought of their mind articulated in his tongue."

And finally may it not be said of him, "In his early days he struck roots deep down into the common soil of the earth, and in his latest years his head towered and shone among the stars."

THE STRUGGLE FOR FREEDOM IN KANSAS—DELIVERED BEFORE THE OHIO SOCIETY OF NEW YORK ON MAY 9, 1892, BY GENERAL THOMAS EWING.

IN February, 1864, I sat in the gallery of the senate chamber at Washington, and heard much of the debate on the bill to repeal the Missouri compromise of 1820. I was then about completing my collegiate course in Brown University, at Providence, Rhode Island. Four years before I had sat in the gallery of the old senate chamber, now the supreme court room, in company with Captain William Tecumseh Sherman (then in Washington from the Pacific coast, and about to be married), and heard that ever memorable debate which ended in the compromise of 1850, growing out of our vast acquisitions of territory from Mexico, and in the enactment of the cruel and barbarous fugitive slave law. I was intensely anti-slavery, far more so than any Whig training would account for. I was hot with indignation at the Whig leaders who supported the repeal of the Missouri compromise, or acquiesced in it, or resisted it but feebly. I recollect my pang of disappointment at the labored speech against the bill of Edward Everett, who was regarded as representing the conservative Whigs. It was so cool, indelicate, elegant, without a glow of the indignant spirit of the North which blazed in the hearts of the people.

The gauge thrown down by the South to fight for the possession of the territories was promptly taken up; and Kansas became the battle-ground. While studying law at Cincinnati, I watched every step in the struggle—saw how the genius and energy of Eli Thayer taught the North to win Kansas for freedom by organized congregation, against the sporadic hordes from the populous borders of Missouri who poured over the line to plant slavery there. When admitted to the bar in the winter of 1856-7, I was married, and removed with my wife to Lawrence.

On the seventh of October, 1854, Andrew H. Reeder had arrived at Fort Lawrence—the first of the ten governors, and acting governors, Reeder, Shannon, Geary, Walker, Denver, Medary, Woodson, Stanton, Walsh and Barber, whose brief careers form part of the tragic history of Kansas.

The pro-slavery portion of western Missouri, as soon as the Organic Act was passed, invaded Kansas at the first election in the fall of 1854, and again at the second election in the spring of 1855, and although few of them intended to become settlers, they took possession of the polls and returned the pro-slavery candidates to the territorial legislature as having been elected. The first legislature, composed of Pennsylvanians near Fort Riley, July 2, 1855, very promptly opened upon Free State men, who had been inadvertently returned as elected, enacted all the general laws of Missouri, modified so as to be applicable to Kansas, and increased their work by enacting a complete slave code, specially enacted for the occasion requiring every territorial officer to swear to support the fugitive slave law, making it a felony, punishable with two years' imprisonment, to write or say that slavery did not legally exist in Kansas. A felony, punishable with five years' imprisonment, to bring into the territory or to sell any printed matter calculated to create dissent, sedition, or disaffection; and finally, making it a felony, punishable with death, to interfere knowingly, in any manner, with the tenure of slave property.

The Free State men, outraged by the forcible seizure of the territorial government by mere invaders, and by the atrocious character of the laws enacted peremptorily and unannounced, repudiated this government as a lawless usurpation. They held a delegate convention at Topeka, September 19, 1855, and then provided for the election of members of a convention to form a State constitution and apply for admission into the Union. The delegates so elected assembled at Topeka, October 23, 1855, and sat until November 11th. They formed the Topeka constitution, which was ratified by an almost unanimous vote of the Free State men of Kansas, and was by petition duly laid before Congress. A bill was passed by the United States house of representatives, July 3, 1856, admitting Kansas into the Union under this constitution, but it was defeated in the senate, and no further action was taken on it in Congress. This constitution, however, and the state officers and legislature elected under it, formed the nucleus and rallying ground for the Free State party, as against the warped Lecompton territorial government, until the election in October, 1857, when the overwhelming numbers of the Free State men enabled them to elect a large majority of the legislature under the Lecompton territorial government, which thereupon became universally recognized as the law-making power of the people. The Topeka form of state government then quietly passed out of even nominal existence.

Prior to this, on the nineteenth of February, 1856, the pro-slavery territorial legislature had enacted a law providing for the election of a state convention, which assembled on the seventh day of September, 1857, and formed what was known as the Lecompton state constitution. This was submitted to the people for adoption or rejection at a election held December 21, 1857. There was a large majority of qualified voters ready and anxious to vote it

